IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

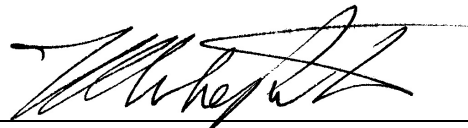|		
WELLS FARGO BANK, N.A.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:12-cv-2383-TMP
	)	
H&P, L.L.C., et al.,	)	
	)	
Defendants.	)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

The matter before the court concerns the bankruptcy of defendant Alton D. Elliott, a.k.a. Alton D. Elliott III (hereafter "Alton Elliott") and the recommended default judgment against defendant H&P, L.L.C. (hereafter "H&P"). For the forthcoming reasons, the court recommends that the causes of action against Alton Elliott be DISMISSED WITHOUT PREJUDICE and that default judgment be entered against H&P only.

Plaintiff Wells Fargo Bank, N.A. (hereafter "plaintiff") initiated the instant action on July 3, 2012, alleging causes of action for failure to pay a promissory note and other loan documents against H&P and for breach of a guaranty by Elliott Security Systems, Inc. and Alton Elliott. (Doc. 1). On August 9, 2012, Elliott Security Systems, Inc., filed its suggestion of bankruptcy upon the record. (Doc. 7). On September 11, 2012, plaintiff filed a motion for entry of default against H&P only (Doc. 8), a motion that was granted by the court on November 14, 2012 (Doc. 10), and plaintiff later filed a motion for default judgment against H&P only on November 26, 2012 (Doc. 11). On January 11, 2013, the court recommended that final judgment by default be entered in favor of plaintiff and against H&P and that the claims against Elliott Security Systems, Inc., be dismissed

without prejudice due to its bankruptcy. (Doc. 12). On January 23, 2013, plaintiff filed a suggestion of bankruptcy upon the record as to Alton Elliott. (Doc. 13).

Because of Alton Elliott's bankruptcy, the magistrate judge RECOMMENDS that all claims against him be DISMISSED WITHOUT PREJUDICE and that a final judgment by default be entered against H&P only. No claims shall remain pending against Alton Elliott or Elliott Security Systems, Inc.

Done this 28th day of January, 2013.

T. MICHAEL PUTNAM
U.S. MAGISTRATE JUDGE